

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Melinda Ellis

(b) County of Residence of First Listed Plaintiff Washoe  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

Alessi &amp; Koenig

County of Residence of First Listed Defendant Clark  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Alessi & Bayard  
20955 Pathfinder Road #100 Diamond Bar CA 91765

Curtis B. Coulter Esq.

403 Hill Street Reno NV 89501

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREIGN TRADE/PAVILY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input checked="" type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1331

## VI. CAUSE OF ACTION

Brief description of cause:

FDCPA

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

8/3/09  
FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1 Thomas J. Bayard (CA SBN 226247)  
2 Email: [tjb@alessibayard.com](mailto:tjb@alessibayard.com)  
3 Michael Fostakowsky (CA SBN 258649)  
4 Email: [mrf@alessibayard.com](mailto:mrf@alessibayard.com)  
5 **Attorneys will comply with L-R IA 10-2 within 30 days from filing**  
6 **ALESSI & BAYARD**  
7 20955 Pathfinder Road, Suite 100  
8 Diamond Bar, California 91765  
9 Phone: (909) 843-6590 / Fax: (877) 877-6530  
10 Attorney for Defendants  
11

12 Robert A. Koenig (NV SBN 3203)  
13 **ALESSI & KOENIG**  
14 9500 W. Flamingo, Suite 100  
15 Las Vegas, Nevada 89147  
16 Phone: (702) 222-4033  
17 Fax: (702) 254-9044  
18 Attorney for Defendants  
19

20 **UNITED STATES FEDERAL DISTRICT COURT**  
21 **FOR THE DISTRICT OF NEVADA - NORTHERN DIVISION**

22 MELINDA ELLIS, individually and on behalf of all  
23 others similarly situated

24 WASHOE COUNTY CASE NO: CV08-01320

25 Plaintiff,

26 vs.  
27 ALESSI TRUSTEE CORPORATION; DAVID  
28 ANTHONY ALESSI; and ALESSI & KOENIG,  
LLC.; and DOES I through XX,

**NOTICE OF REMOVAL**

29 Defendant(s).

30 ARROWCREEK HOMEOWNERS  
31 ASSOCIATION; ASSOCIATED MANAGEMENT,  
32 INC.; ALESSI TRUSTEE CORPORATION; ALESSI  
33 & KOENIG, LLC,

34 Counterclaimants,

35 vs.  
36 MELINDA ELLIS, and DOES I through XX,  
37 Counter-Defendant(s).

**NOTICE OF REMOVAL**

COME NOW, Defendant ALESSI & KOENIG, LLC by its attorneys Alessi & Bayard and hereby removes this case to the United States District Court for the District of Nevada, Northern Division. The grounds for removal are as follows:

I.

## Procedural Statement

1. Plaintiff Melinda Ellis, ("Plaintiff") commenced a civil action, *Ellis v. Arrowcreek, et. al.*, Case No. CV08-01320, in the District Court for the State of Nevada, Washoe County, on May 21, 2008 ("State Court Action").
2. Removing Defendant, Alessi & Koenig, LLC, ("AK") was not named as a Defendant in this first complaint filed in the State Court Action.
3. On or about July 14, 2009, Plaintiff filed a First Amended Complaint ("FAC"), naming Removing Defendant, Alessi & Koenig for the first time. Plaintiff's FAC asserts, *inter alia*, claims for alleged violations of the Fair Debt Collections Practices Act ("FDCPA"), 15 U.S.C. §1692 and also is seeking class certification based on these and other alleged violations.

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1 4. Defendant AK has attached to this Notice as **Exhibit "1"** a true and correct copy of the  
2 Summons and First Amended Complaint for the State Court Action. A stamp indicating the date and  
3 time of filing is present on the first page of the First Amended Complaint. This FAC was served on  
4 the Removing Defendant on or about July 15, 2009. Defendant has received no other process, order,  
5 or pleading.

7  
8 5. As of the date of this removal, Defendant has not responded to the Complaint.  
9

10  
11 6. Venue lies in the Northern Division of the Nevada District pursuant to 28 U.S.C. § 1441(a),  
12 because that District and Division includes Washoe county, Nevada.

13  
14 7. Thirty days have not expired from the date Removing Defendant received service of the  
15 Summons and First Amended Complaint in the State Court Action. All other named Defendants are  
16 filing consent to this removal concurrently herewith.  
17

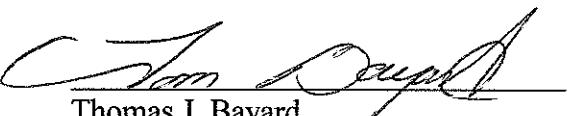
18  
19 8. Removing Defendant is filing a copy of this Notice of Removal with the clerk of the Washoe  
20 County Court and serving a copy on Plaintiff, as required by 28 U.S.C. § 1446(d).  
21

22  
23 II.

24 **Original Jurisdiction Based on Federal Question Jurisdiction**

25 9. This Court has original jurisdiction over the subject matter of the State Court Action under  
26 28 U.S.C. § 1331, as the First Amended Complaint presents a federal question.  
27

1 10. In particular, in Count II of the First Amended Complaint, Plaintiff alleges a claim under 15  
2 U.S.C. § 1692, *et seq.*, the Fair Debt Collection Practices Act (“FDCPA”). See FAC Complaint ¶¶  
3 53-74. Such a claim is subject to removal. *See generally, Philbin v. Trans Union Corp.*, 101 F.3d  
4 957 (3d Cir.1996); *Lockard v. Equifax, Inc.*, 163 F.3d 1259 (11th Cir.1998); *Barnhill v. Bank of*  
5 *America, N.A.*, 378 F.Supp.2d 696 (D.S.C.2005)

6  
7  
8 11. Removal is also proper under the Class Action Fairness Act of 2005, 28 USC §1453.  
9  
10  
11 WHEREFORE, Defendant requests that the State Court Action be removed from the  
12 Washoe County Court and into this Court.  
13  
14 Dated this 2nd day of August, 2009.  
15  
16  
17 ALESSI & BAYARD,  
18  
19   
20 Thomas J. Bayard  
21 Attorneys for Defendant  
22  
23  
24  
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28

## **AFFIRMATION**

The below signed hereby affirms pursuant to NRS 239B.030, that the above document does not contain the social security number of any person.

DATED this 2<sup>nd</sup> day of August, 2009.

ALESSI & BAYARD,

Thomas J. Bayard  
Attorney for Defendant

# **EXHIBIT 1**

1 CODE: 1090  
2 Curtis B. Coulter, Esq.  
3 Nevada State Bar No. 3034  
4 Law Offices of Curtis B. Coulter, P.C.  
5 403 Hill Street  
6 Reno, Nevada, 89501  
7 P: 775 324 3380  
8 F: 775 324 3381

1/15/09

9 Matthew L. Sharp, Esq.  
10 Nevada State Bar No. 4746  
11 Matthew L. Sharp, Ltd.  
12 419 Flint Street  
13 Reno, Nevada 89501  
14 P: 775 324 1500  
15 F: 775 323 6249

16 *Attorneys for Plaintiff*

17  
18 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
19  
20 IN AND FOR THE COUNTY OF WASHOE

21 MELINDA ELLIS, Individually and On Case No.: CV08 01320  
22 Behalf of  
23 Herself and All Others Similarly Situated, Dept. No.: B6

24 Plaintiff,

25 v.

26 ALESSI TRUSTEE CORPORATION, DAVID  
27 ANTHONY ALESSI, and ALESSI & KOENIG,  
28 LLC., and DOES I through XX,

29 Defendants.

---

30 **FIRST AMENDED COMPLAINT-CLASS ACTION**

31 COMES NOW Melinda Ellis and All Others Similarly Situated by and through  
32 her counsel, The Law Offices of Curtis B. Coulter, P.C., and Matthew L. Sharp, Ltd.  
33 and alleges and complain as follows:

34 Law Offices of  
35 Curtis B. Coulter  
36 403 Hill Street  
37 Reno, NV 89501  
38 (775) 324-3380  
39 FAX (775) 324-3381

40 27

1

## **BREACH OF FIDUCIARY DUTY**

1. Melinda Ellis at all relevant times is a resident of Washoe County.
2. At all relevant times Alessi Trustee Corporation (“ATC”) is believed to be a domestic corporation.
3. Defendant, David Anthony Alessi (“Alessi”) is believed to be a resident of the State of Nevada.
4. Alessi & Koenig, LLC. (“A&K”) is domestic Limited-Liability Company, the principal purpose of business is the collection of debt.
5. A&K operates a debt collection agency from its principal place of business in Nevada and regularly collects or attempts to collect debts allegedly owed or due or asserted to be owed or due another, and is a “debt collector” as defined by 15 U.S.C. § 1692(a)(6).
6. A&K is the successor entity to ATC.
7. Defendant, Alessi is the alter ego of A&K and ATC.
8. The Defendants and each of them are agents of the others for the acts alleged herein.
9. The Defendants and each of them have ratified the acts of the others as alleged therein.
10. Defendant, Alessi is the agent of Defendant ATC.
11. Defendant, Alessi is the agent of A&K.
12. At all relevant times Defendant Alessi acted individually and as the agent of the remaining Defendants and was acting within the course and scope of his agency.
13. Melinda Ellis (“Ellis”) owns certain real property located in the Arrowcreek

1 subdivision, Washoe County Nevada. Said property includes, but is not  
 2 limited to, a residence located at 1200 Broken Feather Court, APN 152-  
 3 451-05. Ellis became delinquent in owing association dues to her  
 4 Homeowner's Association, Arrowcreek Homeowner's Association  
 5 ("AHOA"). Said dues accrued during calendar years 2007 and 2008.

6

7 14. At all relevant times, ATC is not a licensed debt collector or debt collection  
 8 agency in the State of Nevada.

9 15. Defendants and each of them, individually or on behalf of any other  
 10 Defendants engaged in activity to collect debt for a Homeowner's  
 11 Association located in Washoe County, Nevada.

12 16. ATC and Alessi created a kickback scheme in which Community Managers  
 13 for Homeowner's Association were paid for assigning debt collections to  
 14 ATC. The kickback was allowed under Chapter 116 of the Nevada Revised  
 15 Statutes.

16 17. The above kickback scheme continues to this date.

17 18. Pursuant to NRS 116.31185, Defendants and each of them, provide money  
 18 as consideration for collection matters to be referred to one or more of the  
 19 Defendants.

20 19. The Defendants and each of them claim that the "kickback", which is  
 21 disguised as an "audit fee" and that it is due by the Plaintiff and others  
 22 similarly situated.

23 20. NRS 116.31185 prohibits a kickback or gratuity to exceed the sum of  
 24 \$100.00 per year.

25 21. The Defendants and each of them know that the "kickback" or audit fee is  
 26 not a debt owed by the Plaintiff or others similarly situated.

22. The Defendants and each of them have violated the provisions of NRS 116.31185, those violations include, but are not limited to; soliciting or accepting compensation, gratuity or other re-numeration that improperly influences to appear to a reasonable person to improperly influence the decisions made by a Community Manager or would result or would appear to a reasonable person to result in a conflict of interest.
23. The kickback scam existed at all times relevant to this action and continues to be used by Alessi and A&K as an incentive to Community Managers to refer collection matters to A&K. A&K then includes the kickback as an expense in debt collection actions against the property owner.
24. Alessi owes Plaintiff a fiduciary duty in collecting debt allegedly due Homeowner's Association.
25. ATC owes Plaintiff a fiduciary duty in collecting debt from the Plaintiff and others similarly situated, where said debt purportedly originates from dues or fees owed by Plaintiff and putative's class to their Homeowner's Association.
26. The excessive charges from ATC and A&K include, but are not limited to, the kickback fee described above but also include, other unreasonable and excessive charges for preparation of form documents, letters, periodic payment, charges, etc.
27. The Defendants and each of them have breached their fiduciary duty to the Plaintiff and putative class whom all have suffered damages as a result of the kickback scheme described above.
28. The Plaintiff is representative of other members of the Class who have incurred charges from Alessi, ATC and/or A&K which include, but are not

1 limited to, the kickback scam described above and other charges that are  
2 unreasonable, excessive and/or illegal as described herein.  
3

4 29. The conduct of the Defendants and each of them has occurred within the  
5 State of Nevada.  
6

7 30. The Defendants charge unreasonable, unnecessary and/or illegal charges  
8 as part of their debt collection activities to the Plaintiff and others similarly  
9 situated. Those charges include, but are not limited to, charges for form  
10 documents, audit fees, and "payment plan" charges.  
11

12 31. The Defendants knew or should have known that monthly assessment fees  
13 for periodic payments under a "payment plan" are not authorized pursuant  
14 to Nevada law, Chapter 616 of the Nevada Revised Statutes.  
15

16 32. Defendants and each of them have breached their fiduciary duty to the  
17 Plaintiff and others similarly situated by not protecting the Plaintiff and  
18 others similarly situated from the excessive charges and, wrongful conduct  
19 alleged herein.  
20

21 33. The Defendants and each of them have repetitively engaged in the same or  
22 similar conduct and/or ratified the same or similar conduct of asserting  
23 liens and/or demands for debt payment in excess of the amount due as  
24 alleged herein.  
25

26 34. As part of the plan and practice on the part of the Defendants and each of  
27 them, Plaintiff and others similarly situated have made payments above  
28 and beyond the sum due their Homeowner's Association.  
29

30 35. As a direct and proximate result of the conduct of the Defendants', Plaintiff  
31 has incurred attorney's fees and costs.  
32

33 36. The Defendants' conduct and each of them has occurred with a wanton  
34

1 and willful disregard of the Plaintiff's rights and the rights of other  
2 similarly situated, said conduct is sufficient to justify the imposition of  
3 punitive damages pursuant to Nevada law against the Defendants and each  
4 of them.

5 37. The conduct of the Defendants and each of them constitutes fraud, malice  
6 and oppression as defined by Nevada law.

7 38. Defendant, Alessi is the individual that directed the conduct of the entities  
8 identified and described herein.

9 39. ATC is a "collection agency" as defined by NRS 649.020(3).

10 40. Defendant, A&K is a "collection agency" as defined by NRS 649.020(3).

11 41. Defendant, ATC is not and has not, at any relevant time been a licensed  
12 "collection agency" within the State of Nevada.

13 42. Defendant, A&K is not and has not, at any relevant time been a licensed  
14 "collection agency" within the State of Nevada.

15 43. Defendant, Alessi is not and has not, at any relevant time been an attorney  
16 licensed to practice law in the State of Nevada.

17 44. Defendant, ATC is not and has not, at any relevant time been a law firm  
18 licensed to practice law in the State of Nevada.

19 45. Defendant, Alessi has at relevant times and/or is performing acts  
20 associated with the foreclosure of a lien on real property belonging to  
21 Plaintiff and others similarly situated.

22 46. Defendant, Alessi is practicing law in the State of Nevada in violation of  
23 NRS 7.045.

24 47. Defendant, ATC has charged Plaintiff and others similarly situated with  
25 "attorney's fees" as part of its debt collection activities.

1 48. Defendant, ATC has at relevant times performed acts associated with the  
2 foreclosure of liens on real property located within the State of Nevada  
3 including, the property belonging to Plaintiff in Washoe County and  
4 property belonging to others similarly situated.  
5

6 49. Defendant, ATC, at relevant times has routinely attempted to collect debt  
7 or payment of sums allegedly due or owing to Homeowner's Associations  
8 located in Washoe County, Nevada. Those debts include debts allegedly  
9 due by Plaintiff and others similarly situated.  
10

11 50. In attempting to collect debt, ATC knowingly violated and A&K knowingly  
12 violates an alleged debt NRS 649.020, whenever, directly or indirectly at  
13 attempt was made to collect the payment asserted to be owed to a  
14 Homeowner's Association.  
15

16 51. As a direct and proximate result of the conduct of the Defendants' and  
17 each of them, Plaintiff and others similarly situated have suffered damages  
18 in an amount to be proved at trial but in excess of \$10,000.  
19

20 52. The Defendants and each of them know that an additional fine is charged  
21 by ATC and A&K on collection matters where a "payment plan" is  
22 implemented. The additional sum constitutes a fine which is prohibited  
pursuant to NRS 116A. The additional sum is disguised as an  
"administrative fee", and has been charged to Plaintiff and others similarly  
situated.

**II.**

53. Plaintiff hereby reincorporates the previous and following allegations set forth in this Complaint as though set forth in full in this Cause of

1 Action.

2

3 54. Defendants, ATC, A&K and Alessi at all relevant times acted as a debt

4 collection agency and/or a debt collector on behalf of the remaining

5 Defendants.

6 55. In acting as a debt collection agency Defendants did not make the

7 disclosure required in 15 U.S.C. § 1692, in an attempt to collect a debt from

8 the Plaintiff and others similarly situated.

9 56. Defendants and each of them attempted to collect a debt from the Plaintiff

10 and others similarly situated.

11 57. One or more of the Defendants have made a demand for payment from the

12 Plaintiff and others similarly situated in a manner substantively similar to

13 **Exhibit 1**.

14 58. Defendants' letter, **Exhibit 1**, threatened additional debt collection

15 activity if Plaintiff failed to satisfy Defendants' demand on or before a

16 specified date.

17 59. Defendants' demand necessarily required Plaintiff to forego her statutory

18 right to challenge the debt in violation of the Fair Debt Collection Practices

19 Act, 15 U.S.C. 1692(g). *Terain v. Kaplan*, 109 F.3d 1428, 1434 (9<sup>th</sup> Cir.

20 1997).

21 60. **Exhibit 1**, violates FDCPA, 15 U.S.C. 1692(g)(a)(4) in that it fails to advise

22 the consumer (Plaintiff and others similarly situated) that she/they must

23 dispute the debt in writing in order to preserve their rights. *McCabe v.*

24 *Crawford & Co.*, 272 F. Supp. 2d 736, 742-44 (N. D. Ill. 2003).

61. **Exhibit 1**, also reflects unexplained debt balances in violation of FDCPA, 15 U.S.C. § 1692(g)(a)(1). *Miller v. McCalla, Raymer, Pedrick, Cobb, Nichols and Andy Clark, LLC*, 214 F.3d 872, (7<sup>th</sup> Cir. 2000).
62. The efforts by Defendants individually and/or as agents of the others to collect a debt from the Plaintiff and others similarly situated violated the Fair Debt Collection Practices Act, State and Federal by failing to disclose that it was attempting to collect a debt and that any information obtained would be used for that purpose.
63. The above described acts and omissions of the Defendants were undertaken by them indiscriminately and persistently, as part of their regular and routine debt collection efforts, and without regard to and/or consideration of the identity or rights of the Plaintiff or others similarly situated.
64. Plaintiff is entitled to damages including, but not limited to, attorney's fees as a result of the Defendants' conduct of unfair debt collection.
65. As a direct and proximate result of the Defendants' acts and omissions as set forth above and in order to punish the Defendants for their outrageous and malicious conduct and to deter them from committing the same or similar acts in the future as part of their illegal debt collection efforts, Plaintiff and others similarly situated are entitled to recover punitive damages in the amount to be proven at trial.
66. As a direct and proximate result of Defendants' violation of 15 U.S.C. § 1692 the Defendants and each of them, are subject to civil damages pursuant to 15 U.S.C. § 1692(k).

- 1 67. The Defendants civilly are liable to the Plaintiff and the putative class as
- 2 set forth under 15 U.S.C. § 1692(k).
- 3 68. The Defendants' conduct as alleged herein continues as of the date of the
- 4 filing of this Amended Complaint.
- 5 69. As a matter of routine and practice, Defendants and each of them, sent
- 6 directly or as an agent of a remaining Defendants communications,
- 7 intending to collect a debt to the Plaintiff and/or others similarly situated
- 8 without complying with 15 U.S.C. § 1692.
- 9 70. Plaintiff and others similarly situated are entitled to damages against the
- 10 Defendants and each of them for their violation of 15 U.S.C. § 1692, as
- 11 alleged herein.
- 12 71. The Defendants' conduct as alleged herein constitutes violations of the Fair
- 13 Debt Collection Practices Act, including, but not limited to, 15 U.S.C. §
- 14 1692(d), 15 U.S.C. § 1692(e), 15 U.S.C. § 1692(f), and 15 U.S.C. § 1692(g).
- 15 72. Plaintiff and others similarly situated are entitled to recover statutory
- 16 damages, actual damages, reasonable attorney's fees and costs as a result
- 17 of Defendants' conduct.
- 18 73. The above described acts and omissions constitute unreasonable debt
- 19 collection practices in violation of the doctrine of Invasion of Privacy.
- 20 *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp. 1443, 1448-49 (D.
- 21 Nev. 1994); *Pittman v. J. J. MacIntyre Co. of Nevada, Inc.*, 969 F. Supp.
- 22 609, 613-14 (D. Nev. 1997).
- 23 74. Plaintiff and others similarly situated are entitled to recover actual
- 24 damages as well as punitive damages in an amount to be proved at trial.

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**III.**  
**THIRD CAUSE OF ACTION**  
**(Racketeering)**

75. Plaintiff hereby reincorporates the previous and following allegations set forth in this Complaint as though set forth in full in this Cause of Action.

76. Defendants, have engaged in racketeering by attempting to commit or acting in the conspiracy with remaining Defendants to commit the taking of property from another under circumstances not amounting to robbery and by obtaining possession of money or property valued at \$250.00 or more as set forth in NRS 207.360.

77. Defendants and each of them have engaged in racketeering activity by committing the above crimes or other crimes with a similar pattern, intent, result or accomplices including, but not limited to, the named Defendants in this action. The victims include the Plaintiff and others similarly situated who are members of the Homeowner's Association located within the State of Nevada and who are further as described as follows:

(1) the prosecution of separate actions by or against individual members of the class would create a risk of (A) inconsistent or varying of adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or (B) adjudications with respect to individual members of the class which would as practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impaired or impede their ability to protect their interests; or (2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or (3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or

undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action. NRCP 23.

78. Plaintiff and others similarly situated are entitled to damages as a result of Defendants' racketeering conduct.

79. Plaintiff requests Class certification of this action against the Defendants.

80. The putative Class is defined as:

**Any owner of Nevada property who received a debt collection and/or lien notice from Alessi Trustee Corporation and/or Alessi & Koenig, LLC and who paid Alessi Trustee Corporation or Alessi & Koenig, LLC any collection charges or legal fees.**

81. To be excluded from the Class, (a) are all directors, officers, agents and employees of Alessi Trustee Corporation or Alessi & Koenig, LLC; (b) Plaintiffs' counsel; and (c) the Judge of the Court to which this case is assigned.

82. Individuals similarly situated to the Plaintiff, exceed 86 individuals. The Cease and Desist Order, **Exhibit 2**, states that ATC "filed over 80-6 (86) documents related to liens on real property as part of the foreclosure process."

83. Plaintiff claims are typical of the claims of the putative Class and Plaintiff does not have interest adverse to the interest of any other Member of the Class.

84. A Class Action will promote an orderly and expeditious administration and adjudication of the claims of the Plaintiff and the Class Members.

85. ATC and its successor, A&K maintain amounts owed and collected in electronic ledgers as those amounts pertain to Plaintiff and the putative Class.

1 Wherefore, Plaintiff prays:

2

3 1. That the Court will grant her certification to proceed against the Defendants as

4 a Class Action;

5 2. That damages be imposed against the Defendants and each of them in an

6 amount necessary to punish them and deter the Defendants from engaging in the

7 same or similar conduct in the future;

8 3. For prejudgment interest; and

9 4. For other amounts and or relief deemed just and proper under the

10 circumstances.

11 The undersigned hereby affirms that the above document does not contain the Social Security Number of any  
12 person, pursuant to NRS 239B.030. \*

13 Dated: this 15<sup>th</sup> of July, 2009.



14

15 \* Curtis B. Coulter, Esq.  
16 Nevada State Bar No. 3034  
17 Law Offices of Curtis B. Coulter, P.C.  
18 403 Hill Street  
19 Reno, Nevada, 89501  
20 P: 775 324 3380  
21 F: 775 324 3381

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Matthew L. Sharp, Esq.  
Nevada State Bar No. 4746  
Matthew L. Sharp, Ltd.  
419 Flint Street  
Reno, Nevada 89501  
P: 775 324 1500  
F: 775 323 6249

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Law Offices of Curtis B. Coulter, P.C., and that I served a true and correct copy of the foregoing document by:

Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope with first-class postage affixed thereto, deposited in the United States Mail, at Reno, Nevada.

Personal delivery by causing a true copy thereof to be hand-delivered to the address or addresses set forth below.

Facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address or addresses noted below.

Federal Express or other overnight delivery.

Hand-delivery by Reno/Carson Messenger Service.

Addressed as follows:

Charles Geisendorf, Esq.  
Alessi & Koenig, LLC  
9500 W. Flamingo, Suite 100  
Las Vegas, NV 89147

Dated: 7.15.09

Employee of Curtis B. Coulter, Esq.

Law Offices of  
Curtis B. Coulter  
403 Hill Street  
Reno, NV 89501  
(775) 324-3380  
FAX (775) 324-3381

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**INDEX OF EXHIBITS**

Exhibit #:	Description:	No. of Pages:
<b>Exhibit 1</b>	Facsimile Cover Letter dated April 16, 2008 and Letter dated March 27, 2006	2
<b>Exhibit 2</b>	Order to Cease and Desist Activities	8

# **EXHIBIT 1**

# **EXHIBIT 1**

David Anthony Alessi, Esq.  
(Owner)  
Licensed in California

Thomas Bayard, Esq.  
(General Counsel - California)  
Licensed in California

Amanda Layer, Qualified Manager  
Licensed Nevada Collection Manager

Robert A. Koenig, Esq.  
(General Counsel - Nevada and Colorado)  
Licensed in Nevada, California and Colorado

Trevor M. Quirk, Esq.  
(General Counsel - Nevada)  
Licensed in Nevada and California



Trustee Corporation  
A Division of the Law Offices of Alessi & Koenig, LLP

## FACSIMILE COVER LETTER

To:	Ellis Melinda	Re:	1200 Broken Feather Ct.
From:	Candace Newman	Date:	Wednesday, April 16, 2008
Fax No.:		Pages:	1, including cover.

Dear Ellis:

This cover will serve as an amended demand on behalf of Arrow Creek for the above-referenced escrow property located at 1200 Broken Feather Ct., Reno, NV. The total amount due through October, 30, 2008 is \$8,948.33. The breakdown of fees, interest and costs is as follows:

Notice of Intent To Lien	\$175.00
Notice of Default	\$845.00
Payment Plan Letter	\$150.00
Pre NOD	\$345.00
<u>Management Company Audit Fee</u>	<u>\$100.00</u>
<b>Total</b>	<b>\$1,615.00</b>

1. Attorney and/or Trustee fees:	\$1,615.00
2. Costs (Notary, Trustee Sales Guarantee, Recording, Interest, Copies, Mailings, Publication and Posting)	\$50.00
3. Fines:	\$0.00
4. Assessments Through October, 30, 2008 @ \$239.24 per Monthly	<u>\$7,283.33</u>
<b>Total Amount Due:</b>	<b>\$8,948.33</b>

Please have a check in the amount of \$8,948.33 made payable to the Alessi Trustee Corporation and mailed to the below listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

9500 W. Flamingo Road Suite 100  
Las Vegas, NV 89147  
Phone (702) 222-4033 Fax (702) 254-9044

28914 Roadside Dr. Suite F-4  
Agoura Hills, CA 91301  
Phone (818) 735-9600 Fax (818) 735-0096

WITH ADDITIONAL OFFICES IN LAKE TAHOE NV AND VENTURA CA

Phone (775) 626-2323 (Reno)

[www.alessitrussee.com](http://www.alessitrussee.com)

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FROM

Case 2:06-cv-00425-RLH-RJJ Document 1-1 Filed 04/06/2006 Page 88 of 2022 Page 3



David Anthony Alessi, Esq.  
Licensed in California

Thomas Bayard, Esq. (Of Counsel)  
Licensed in California

Robert A. Koenig, Esq.  
Licensed in Nevada, California and  
Colorado

Trevor M. Quirk, Esq. (Of Counsel)  
Licensed in Nevada

March 27, 2006

Brian & Tiffany L Santarossa  
1086 Elation Ln., #3  
Las Vegas, NV 89015

Regarding: Paradise Court HOA

Dear Brian & Tiffany L Santarossa:

Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Paradise Court HOA on March 27, 2006. The total amount due by April 27, 2006 is \$623.83. Please note that the total amount due may differ from the amount due shown on the enclosed Lien. Please submit payment to our Nevada mailing address listed below. Payment must be in the form of a cashier's check or money order and made payable to the Alessi Trustee Corporation.

**\*PLEASE NOTE: WE DO NOT ACCEPT PARTIAL PAYMENTS.**

If you dispute the validity of this debt, you must contact our office in writing within thirty-days after receipt of this notice. Once contacted, the current amount due and/or the name and address of the original creditor will be mailed to you. If you do not contest the validity of this debt, the Association will assume the debt is valid.

It is extremely important that we receive your payment by the due date listed above. Failure to submit payment will result in our offices initiating foreclosure proceedings on your property, causing substantial additional costs to you. Should you fail to bring your delinquent account current, you could lose ownership of your home.

Please contact me with any questions or comments.

Yours very truly,

ALESSI TRUSTEE CORPORATION

Bobby Alessi, Trustee Sale Officer  
Enclosure

6655 W. Sahara Avenue, Suite B-200  
Las Vegas, NV 89146  
Phone (702) 222-4033 Fax (702) 254-9044

28914 Roadside Dr. Suite F-4  
Agoura Hills, CA 91301  
Phone (818) 735-9600 Fax (818) 735-0096

[www.alessitrustee.com](http://www.alessitrustee.com)

**EXHIBIT 2**

**EXHIBIT 2**



STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION

In Re:

ALESSI TRUSTEE CORPORATION, A  
Nevada Corporation;

Respondent

ORDER TO CEASE AND DESIST  
ACTIVITIES

ORDER TO CEASE AND DESIST ACTIVITIES

The State of Nevada, Department of Business and Industry, Financial Institutions Division (hereinafter "Division") hereby orders ALESSI TRUSTEE CORPORATION, (hereafter "Respondent") to cease and desist from any and all activities which are covered under Nevada Revised Statutes (NRS) Chapter 649.

JURISDICTION

1. The business of collecting claims for others or of soliciting the right to collect or receive payment from another of any claim in the State of Nevada is governed by chapter 649 of the Nevada Revised Statutes (NRS) and chapter 649 of the Nevada Administrative Code (NAC). The Division has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in collection services. NRS 649.026.

2. Pursuant to the authority vested by NRS Chapter 649, the Division hereby makes the following Findings of Fact, Conclusions of Law, and Order.

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1 FINDINGS OF FACT  
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3 3. Respondent ALESSI TRUSTEE CORPORATION is not a business registered  
4 with the State of Nevada Secretary of State. The resident agent for the corporation is David  
5 Alessi located at 9500 West Flamingo Road, Ste. 100, Las Vegas, Nevada 89147.

6 4. Mr. Alessi is president of Respondent Alessi Trustee Corporation.

7 5. According to the website for the Nevada State Bar Association, Mr. Alessi is not  
an attorney in the state of Nevada.

8 6. Mr. Alessi is a partner in the law firm and limited liability company, Alessi &  
9 Koenig, LLP, located at 9500 West Flamingo Road, Ste. 100, Las Vegas, Nevada 89147.

10 7. The two entities have separate Articles of Organization and separate  
11 businesses.

12 8. The website for Alessi Trustee Corporation states that it is a "Division of the Law  
13 Offices of Alessi & Koenig." However, the Articles of Incorporation for Respondent were filed  
14 on December 31, 2002.

15 9. The Articles of Organization for Alessi & Koenig, LLP, were filed on February 4,  
16 2005, over two (2) years later.

17 10. Respondent states in advertising that it does "assessment collections" and will  
18 conduct the following services:

19 ATC will prepare and record the Notice of Delinquent Assessment  
20 and forward copy to the homeowner both regular and certified  
21 mail. The lien will not be removed until all delinquent assessments,  
22 cost and fees have been paid. The homeowner will be billed for  
23 the preparation and recording of the lien.

24 ~~25~~

25 The Notice of Default starts the commencement of non-judicial  
26 foreclosure. ATC will prepare and have the NOD recorded in the  
27 appropriate county. ATC will send both certified and regular mail to  
appropriate parties in accordance with the appropriate state law.  
Once the default is filed, Alessi & Koenig LLP will review the file to  
determine the future foreclosure process to eliminate potential risk  
to the association.

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Upon approval from the Association, ATC will prepare and send to  
all appropriate parties a copy of the Notice of Trustee Sale,  
Publish a copy in an adjusted newspaper and post all notices as  
required by State law.

11. Respondent is engaged in the actions "associated with the foreclosure of a lien  
pursuant to NRS 119.31102 to 119.31108." NRS 649.020(3)(e).
12. Pursuant to records of the Clark County Recorder's Office, Respondent has filed  
over eighty-six (86) documents related to liens on real property as part of the foreclosure  
process.
13. Respondent is not now and has never been licensed as a collection agency by  
the Division.
14. Respondent claims to be a subsidiary of the law firm of Alessi & Koenig, LLC.
15. However, the collection and foreclosure actions of Alessi Trustee Corporation  
are not "client" claims in the usual course of the practice of the profession of Alessi &  
Koenig, ELC, NRS 649.020(2)(g).
16. Respondent is not engaged in the practice of law.
17. Alessi & Koenig, LLC, is a separate legal entity and conducts its activities in  
relation to the practice of law under the name of Alessi & Koenig, LLC and not Alessi Trustee  
Corporation.
18. Respondent solicited business as a collection agency in the State of Nevada.
19. Respondent engaged in the business as a collection agent in the State of  
Nevada without first obtaining a license to do so.
20. If any Finding of Fact is more properly classified a Conclusion of Law, then it  
shall be deemed as such.

#### CONCLUSIONS OF LAW

21. NRS 649.075(1) reads as follows:

Except as otherwise provided in this section, a person shall not  
conduct within this State a collection agency or engage within this

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State in the business of collecting claims for others, or of collecting  
the right to collect or receive payment for another of any claim, or  
advise, or solicit, either in person, by letter, or person to otherwise,  
the right to collect or receive payment for another of any claim, or  
seek to make collection or obtain payment of any claim on behalf  
of another without having first applied for and obtained a license  
from the Commissioner.

22. NRS 618.920 reads as follows:

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NRS 618.920 "Collection agency" defined.

1. "Collection agency" means all persons, engaging directly or  
indirectly, and as a primary or a secondary object, business or  
pursuit, in the collection of or in soliciting or obtaining in any  
manner the payment of a claim owed or due or asserted to be  
owed or due to another.

2. "Collection agency" does not include any of the following  
unless they are conducting collection agency:

(a) Individuals regularly employed on a regular wage or salary,  
in the capacity of agent, or in other similar capacity upon the  
staff of employees of any person not engaged in the business of a  
collection agency or making or attempting to make collection as  
an incident to the usual practices of their primary business or  
profession.

(b) Banks.

(c) Merchant cooperative associations.

(d) Individuals' associations and the board members, officers,  
employees and units' owners of those associations when acting  
under the authority of and in accordance with chapter 116 or 116B  
of NRS and the governing documents of the association, except  
for those community managers included within the term "collection  
agency" pursuant to subsection 3.

(e) Attorneys and counselors at law licensed to practice in

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this State, so long as they are retained by their clients to  
collect or to solicit or obtain payment of such clients' claims  
in the usual course of the practice of their profession.

3. "Collection agency".

(a) Includes a community manager while engaged in the  
management of a common-interest community or the  
management of an association, of a condominium, hotel, if the  
community manager, or any employee, agent or affiliate of the  
community manager, performs or effects to perform any act  
associated with the foreclosure of a lien pursuant to NRS

110.31(62) to 110.31(63), inclusive, or 110.695 to 110.700,  
inclusive; and

1 (b) Does not include any other community manager while  
2 engaged in the management of a common-interest community or  
3 the management of an association of a condominium hotel.

4. As used in this section:

5 (a) "Community manager" has the meaning ascribed to it in  
6 NRS 110.625 or 110.626;

7 (b) "Unit-owner's association" has the meaning ascribed to it in  
8 NRS 110.011 or 110.016;

9 *(Emphasis added)*

10 23. Respondent is engaged in the business of a collection agency as defined by  
11 NRS 649.020(2)(e). It has solicited for businesses to conduct foreclosure services on behalf of  
12 common interest communities.

13 24. Respondent also claimed to have a licensed collection manager on staff.  
14 However, neither the business nor its manager have been licensed by the State of Nevada.

15 25. NRS 649.020(4)(a) defines "Community manager" as defined in NRS 110.023,  
16 which states, "Community manager" means a person who provides for or otherwise engages  
17 in the management of a common-interest community or the management of an association of  
18 a condominium hotel."

19 26. A common interest community is defined as "real estate with respect to which a  
20 person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that  
21 unit." NRS 110.024.

22 27. Respondent is a community manager who performs or offers to perform acts  
23 associated with the foreclosure of a lien.

24 28. Because Respondent is engaged in the business practice which would require a  
25 license pursuant to NRS Chapter 649 and Respondent does not possess a license as a  
26 collection agent, Respondent is in violation of NRS 649.076(1), which reads as follows:

27 Except as otherwise provided in this section, a person shall not  
28 conduct within this State a collection agency or engage within this  
29 State in the business of collecting claims for others, or of collecting  
30 the right to collect or receive payment for another of any claim, or  
31 adversary, or collect, either in print, by letter, in person or otherwise,  
32 the right to collect or receive payment for another of any claim, or

1 seek to make collection or obtain payment of any claim on behalf  
2 of another without having first applied for and obtained a license  
3 from the Commissioner.

4 29. The fact that Respondent is a subsidiary of the law firm and that the officers in  
5 Respondent's corporation are attorneys does not exempt them from this requirement.

6 30. NRS 649.020(2)(g) excludes as collection agency "Attorneys and counselors  
7 at law licensed to practice in this State, so long as they are retained by their clients to  
8 collect or obtain payment of such clients' claims in the usual course of the  
9 practice of their profession."

10 31. Mr. Alessi does not meet the initial requirement of NRS 649.020(2)(g) because  
11 he is not a licensed attorney in the State of Nevada.

12 32. Consequently, Mr. Alessi can not be retained to practice the profession of law in  
13 the State of Nevada because he is not licensed to do so.

14 33. Respondents are a separate corporate entity from the law firm. The fact that it  
15 is a subsidiary does not remove its distinct legal status as a separate corporation.

16 34. Respondent is not acting in the capacity as an attorney collecting a claim on  
17 behalf of a client. It is acting as a foreclosure agent on behalf of homeowner associations.

18 35. NRS 649.395 provides the Commissioner to take disciplinary action for any  
19 violation of NRS Chapter 649.

20 NRS 649.395 Investigation of verified complaint concerning  
21 unlicensed person, order to cease and desist, administrative fines;  
22 suit to recover fine, cumulative penalties.

23 1. The Commissioner shall conduct an investigation if he  
24 receives a verified complaint from any person that sets forth  
25 reason to believe that an unlicensed person is engaging in an  
activity for which a license is required pursuant to this chapter.

26 2. If the Commissioner determines that an unlicensed person  
27 is engaging in an activity for which a license is required pursuant to  
28 this chapter, the Commissioner shall issue and serve on the  
person an order to cease and desist from engaging in the activity  
until such time as the person obtains a license from the  
Commissioner.

29 3. If a person upon whom an order to cease and desist is  
30 served does not comply with this order within 30 days after service,  
the Commissioner shall, after holding an opportunity for a hearing

(a) Impose upon the person an administrative fine of \$10,000;

(b) Enter into a written consent agreement with the person pursuant to which the person agrees to cease and desist from all unlicensed activity in this State relating to the collection of debts and impose upon the person an administrative fine of not less than \$5,000 and not more than \$10,000.

The imposition of an administrative fine pursuant to this subsection is a final decision for the purposes of judicial review.

4. The Commissioner shall bring suit in the name and on behalf of the State of Nevada against a person upon whom an administrative fine is imposed pursuant to subsection 3 to recover the amount of the administrative fine:

(a) If the petition for judicial review is filed pursuant to NRS 283B.130 and the fine remains unpaid for more than 90 days after notice of the imposition of the fine;

(b) If a petition for judicial review is filed pursuant to NRS 283B.130 and the fine remains unpaid for more than 90 days after exhaustion of any right of appeal in the courts of this State resulting in a final determination that upholds the imposition of the fine;

5. A person's liability for an administrative fine is in addition to any other penalty provided in this chapter.

36. Pursuant to NFIS 649.440, the Commissioner can impose administrative fines of not more than \$10,000.00 for any violation of this chapter.

In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who:

1. Without a license or certificate, conducts any business or activity for which a license or certificate is required pursuant to the provisions of this chapter, or
2. Violates any provision of this chapter or any regulation adopted pursuant thereto.

37. Respondent has violated NRS 649.075 by soliciting and collecting payments on behalf of another.

38. Respondent has violated NRS 649.075 by engaging in the business of soliciting payments for another in the State of Nevada.

39. Pursuant to NRS 649.395, the Division hereby orders Respondent to cease and desist from engaging in any activity covered under NRS Chapter 649.

1 40. The Division will also assess an administrative fine in the amount of \$10,000.00.  
2 41. If any Conclusion of Law is more properly classified as a Finding of Fact, then it  
3 shall be deemed such.

4 **ORDER**

5 IT IS HEREBY ORDERED that Respondent ALESSI TRUSTEE CORPORATION shall  
6 cease and desist from engaging in the business of collecting claims for  
7 others, or of soliciting the right to collect or receive payment for another of any claim or  
8 advertise, or solicit, either in print by letter, in person or otherwise, the right to collect or  
9 receive payment for another of any claim or seek to make collection or obtain payment of any  
10 claim on behalf of another, including but not limited to, cease and desist from performing or  
11 offering to perform "any act associated with the foreclosure of a lien" within the State of  
12 Nevada unless and until such time Respondent becomes licensed by the Division pursuant to  
13 NRS Chapter 649.

14 IT IS FURTHER ORDERED that Respondent ALESSI TRUSTEE CORPORATION is  
15 assessed an administrative fine of \$10,000.00.

16 DATED this 12<sup>th</sup> day of September, 2009.

17  
18 STATE OF NEVADA  
19 DEPARTMENT OF BUSINESS AND INDUSTRY  
20 FINANCIAL INSTITUTIONS DIVISION

21 BY:

22 STEVEN KONDREP  
23 Deputy Commissioner